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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/758,600	01/16/2004	Masao Hashimoto	163852020400	5379
25227	7590	03/21/2006	EXAMINER	
MORRISON & FOERSTER LLP 1650 TYSONS BOULEVARD SUITE 300 MCLEAN, VA 22102			TOTH, KAREN E	
			ART UNIT	PAPER NUMBER
			3736	

DATE MAILED: 03/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/758,600

Applicant(s)

HASHIMOTO ET AL.

Examiner

Karen E. Toth

Art Unit

3736

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 5 is/are rejected.
- 7) ☒ Claim(s) 3,4 and 6-13 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
 2. Ascertaining the differences between the prior art and the claims at issue.
 3. Resolving the level of ordinary skill in the pertinent art.
 4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
4. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over O'Sullivan'043 (US Patent 5494043) in view of Chesney'188 (US Patent 6544188).

O'Sullivan'043 discloses an arterial sensor comprising a sensor unit (element 10) with a pressure sensitive portion (element 12) (column 4, lines 60-64); and a device for fixing a subject in place (element 50) (figure 5). Said sensor unit is connected to, and pressed against the subject by, a band (element 52) that has one portion mounted between the sensor unit and the fixing device, and a second portion mounted between the sensor unit and the fixing device on the opposite side of the sensor unit (figure 5). O'Sullivan does not teach the presence of a tensioning part for pulling a band portion.

Chesney'188 teaches a pulse signal sensor apparatus comprising a fixing device (element 112) that is secured to a subject with straps (elements 114 and 117) that may be adjusted by pulling (column 6, lines 43-56) and are removably mounted upon the fixing stand, so that the device may be removeably fastened to the fixing stand with said straps.

It would have been obvious to one skilled in the art at the time the invention was made to have made the arterial pulse sensor of O'Sullivan'043 with the removable fastening mechanism of Chesney'188 on the fastening bands because it is known in the art to allow removable fastening of bands for ease of using the device.

5. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over O'Sullivan'043 in view of Chesney'188.

Regarding Claim 2, O'Sullivan'043 in view of Chesney'188 teaches all the elements of the current invention, as discussed in paragraph 4 above, except for a fixing part for immovably fixing a first part of the fastening band on the fixing stand with the other end of the second band portion.

Art Unit: 3736

Chesney'188 further teaches that one end of the fastening band (elements 114 and 117) is attached to the fixing stand (Figure 1) to prevent detachment of the apparatus components.

It would have been obvious to one skilled in the art at the time the invention was made to have immovably fixed one end of the first portion of the fastening band of O'Sullivan'043 to the fixing stand, as shown by Chesney'188, to prevent detachment of the apparatus components.

Allowable Subject Matter

6. Claims 3-4 and 6-13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The prior art of record fails to anticipate or make obvious the structure of Claims 3 and 4, including, *inter-alia*, the fixing part including a hook-and-loop fastener wherein the two band portions engage each other and are mounted on the fixing stand.

The prior art of record fails to anticipate or make obvious the structure of Claims 6-13, including, *inter-alia*, the first band portion of the fixing part having a first segment within the fixing stand and a second segment outside the fixing stand.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US Patent Des. 406346 to Hirakawa, which discloses a wrist cuff sphygmomanometer with a sensor unit.

US Patent 6932772 to Kan, which discloses a blood pressure measuring apparatus comprising a sensor unit and wrist fixing device.

US Patent Application 2004/0010199 to Hashimoto, which discloses a pulse wave monitor comprising a sensor unit and fixing device.

US Patent 4409983 to Albert, which discloses a pulse measuring device comprising a sensor unit held to a fixture by straps.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karen E. Toth whose telephone number is 571-272-6824. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max Hindenburg can be reached on 571-272-4726. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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